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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 3rd December, 1968:—

BILL No. 108 OF 1968

A Bill further to amend the Customs Act, 1962.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Customs (Amendment) Act, 1968... Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Insertion of new Chapters IVA, IVB and IVC.

2. After Chapter IV of the Customs Act, 1962 (hereinafter referred to as the principal Act), the following Chapters shall be inserted, namely:— 52 of 1962.

'CHAPTER IVA

DETECTION OF ILLEGALLY IMPORTED GOODS AND PREVENTION OF THE DISPOSAL THEREOF

Definitions.

11A. In this Chapter, unless the context otherwise requires,—

(*a*) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

(*b*) "intimated place" means a place intimated under sub-section (*1*), sub-section (*2*) or sub-section (*3*), as the case may be, of section 11C;

(c) "notified date", in relation to goods of any description, means the date on which the notification in relation to such goods is made under section 11B;

(*d*) "notified goods" means goods specified in the notification made under section 11B.

Power of Central Government to notify goods.

11B. If, having regard to the magnitude of the illegal import of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal import, circulation or disposal of such goods, or facilitating the detection of such goods, it may, by notification in the Official Gazette, specify goods of such class or description.

Persons possessing notified goods to intimate the place of storage, etc.

11C. (*1*) Every person who owns, possesses or controls, on the notified date, any notified goods, shall, within seven days from that date, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the notified goods owned, possessed or controlled by him and the place where such goods are stored.

(*2*) Every person who acquires, after the notified date, any notified goods, shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be stored after such acquisition and shall, immediately on such acquisition, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the notified goods acquired by him:

Provided that a person who has delivered a statement, whether under sub-section (*1*) or sub-section (*2*), in relation to any notified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further statement in relation to any notified goods acquired by him, after the date of delivery of the said statement, so long as the notified goods so acquired or stored at the place intimated by him under the said sub-section.

(*3*) If any person intends to store any notified goods at any place other than the intimated place, he shall, before taking out such goods from the intimated place, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be stored and he shall, is often as he intends to take out any notified goods from an intimated place, to any other place, deliver, before taking out such goods from the intimated place, to the proper officer a similar intimation.

(*4*) No person shall, after the expiry of seven days from the notified date, keep or store any notified goods at any place other than the intimated place and no such goods shall be taken out of any intimated place unless such goods are accompanied by the voucher referred to in section 11F.

Precautions to be taken by persons acquiring notified goods.

11D. No person shall acquire (except by gift or succession, from any other individual in India), after the notified date, any notified goods—

(*i*) unless such goods are accompanied by,—

(*a*) the voucher referred to in section 11F or the memorandum referred to in sub-section (*2*) of section 11G, or

(*b*) in the case of a person who has himself imported any goods, any evidence showing clearance of such goods by the Customs Authorities; and

(*ii*) unless he has taken, before acquiring such goods, not being goods acquired from a dealer having a fixed place of business, such reasonable steps as may be specified by rules made in this behalf, to ensure that the goods so acquired by him are not goods which have been illegally imported.

Persons possessing notified goods of maintain accounts.

11E. (*1*) Every person who, on or after the notified date, owns, possesses, controls or acquires any notified goods shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any noti-

fied goods, make an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the person from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the notified goods to which such accounts relate:

Provided that it shall not be necessary to maintain separately accounts in the form and manner specified by rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified in the said form.

(2) Every person who owns, possesses or controls any notified goods and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the notified goods so used by him and shall keep such account at the intimated place.

Sale, etc., of notified goods to be evidenced by vouchers.

11F. On and from the notified date, no person shall sell, transfer, deliver or otherwise dispose of any notified goods, unless every transaction in relation to the sale, transfer, delivery or other disposal of such goods is evidenced by a voucher in such form and containing such particulars as may be specified by rules made in this behalf.

Sections 11C, 11E and 11F not to apply to goods in personal use.

11G. (1) Nothing in sections 11C, 11E and 11F shall apply to any notified goods which are—

(a) in personal use of the person by whom they are owned, possessed or controlled, or

(b) kept in the residential premises of a person for his personal use.

(2) If any person, who is in possession of any notified goods referred to in sub-section (1), sells or parts with, for a valuable consideration, any such goods, he shall issue to the purchaser or receiver of such goods, as the case may be, a memorandum containing such particulars as may be specified by rules made in this behalf.

CHAPTER IVB

PREVENTION OR DETECTION OF ILLEGAL EXPORT OF GOODS

Definitions.

11H. In this Chapter, unless the context otherwise requires,—

(a) "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

(*b*) "intimated place" means a place intimated under sub-section (*1*), sub-section (*2*) or sub-section (*3*), as the case may be, of section 11J;

(*c*) "specified area" includes the Indian customs waters, and such inland area, not exceeding fifty kilometres in width from any coast or other border of India, as the Central Government may, having regard to the vulnerability of that area to smuggling, by notification in the Official Gazette, specify in this behalf:

Provided that where a part of any village, town or city falls within a specified area, the whole of such village, town or city shall, notwithstanding that the whole of it is not within fifty kilometres from any coast or other border of India, be deemed to be included in such specified area;

(*d*) "specified date", in relation to specified goods, means the date on which any notification is made under section 11-I in relation to those goods in any specified area;

(*e*) "specified goods" means goods of any description specified under section 11-I in relation to a specified area.

Power of Central Government to specify goods.

11-I. If, having regard to the magnitude of the illegal export of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal export or facilitating the detection of such goods it may, by notification in the Official Gazette, specify goods of such class or description.

Persons possessing specified goods to intimate the place of storage, etc.

11J. (*1*) Every person who owns, possesses or controls, on the specified date, any specified goods, the market price of which exceeds fifteen thousand rupees shall, within seven days from that date, deliver to the proper officer an intimation containing the particulars of the place where such goods are kept or stored within the specified area.

(2) Every person who acquires after the specified date, any specified goods,—

(*i*) the market price of which, or

(*ii*) the market price of which together with the market price of any specified goods of the same class or description, if any, owned, possessed or controlled by him on the date of such acquisition,

exceeds fifteen thousand rupees shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be stored after such acquisition and shall, immediately on such

acquisition, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the specified goods acquired by him:

Provided that a person who has delivered a statement, whether under sub-section (*1*) or sub-section (*2*), in relation to any specified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further statement in relation to any specified goods acquired by him, after the date of delivery of the said statement, so long as the specified goods so acquired are stored at the place intimated by him under the said sub-section.

(*3*) If any person intends to store any specified goods to which sub-section (*1*) or sub-section (*2*) applies ,at any place other than the intimated place, he shall, before taking out such goods from the intimated place, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be stored and he shall, as often as he intends to take out any specified goods from an intimated place, to any other place, deliver, before taking out such goods from the intimated place, to the proper officer a similar intimation.

(*4*) No person shall, after the expiry of seven days from the specified date, keep or store any specified goods to which sub-section (*1*) or sub-section (*2*) applies, at any place other than the intimated place and no such goods shall be taken out of any intimated place unless such goods are accompanied by a transit voucher (in such form and containing such particulars as may be specified by rules made in this behalf) prepared by the person owning, possessing or controlling such goods.

Transport of specified goods to be covered by vouchers.

11K. (*1*) No specified goods shall be transported from, into or within any specified area or loaded on any animal or conveyance in such area, unless they are accompanied by a transport voucher (in such form and containing such particulars as may be specified by rules made in this behalf) prepared by the person owning, possessing, controlling or selling such goods:

Provided that no transport voucher shall be necessary for the transport, within a village, town or city, of any specified goods the market price of which, on the date of transport, does not exceed one thousand rupees.

(*2*) Notwithstanding anything contained in sub-section (*1*), where the Central Government, after considering the nature of any specified goods, the time, mode, route and the market price of the goods intended to be transported, the purpose of the

transportation and the vulnerability of the specified area with regard to the illegal export of such goods is satisfied that it is expedient in the public interest so to do, it may,—

(*i*) by notification in the Official Gazette, specify goods of such class or description and of a market price exceeding such sum as that Government may notify and different sums in relation to the specified goods of the same class or description, or different classes or descriptions, may be notified for the same specified area or for different specified areas, and

(*ii*) direct that no person shall transport any goods so specified unless the transport voucher in relation to them has been countersigned by the proper officer.

Persons possessing specified goods to maintain accounts

11L. (*1*) Every person who, on or after the specified date, owns, possesses or controls, within a specified area, any specified goods of a market price exceeding fifteen thousand rupees, shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any specified goods, make an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the person from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the specified goods to which such accounts relate:

Provided that it shall not be necessary to maintain separately accounts in the form and manner specified by rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified in the said form.

(*2*) Every person who owns, possesses or controls any specified goods and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the specified goods so used by him and shall keep such account at the intimated place.

(*3*) If at any time, on a verification made by a proper officer, it is found that any specified goods owned, possessed or controlled by a person are lesser in quantity than the stock of such goods as shown, at the time of such verification, in the accounts referred to in sub-section (*1*), read with the accounts referred to in sub-section (*2*), it shall be presumed, unless the contrary

is proved, that such goods, to the extent that they are lesser than the stock shown in the said accounts, have been illegally exported and that the person owning, possessing or controlling such goods has been concerned with the illegal export thereof.

Precautions to be taken by persons selling or transferring any specified goods.

11M. Except where he receives payment by cheque drawn by the purchaser, every person who sells or transfers within any specified area, any specified goods, shall obtain, on his copy of the sale or transfer voucher, the signature and full postal address of the person to whom such sale or transfer is made and shall also take such other reasonable steps as may be specified by rules made in this behalf to ensure that the purchaser or transferee, as the case may be, is not a fictitious person, and if he omits or fails to take such steps, it shall be presumed, unless the contrary is proved, that such goods have been illegally exported and the person who had sold or transferred such goods had been concerned in such illegal export:

Provided that nothing in this section shall apply to petty sales or other transfers of any specified goods if the aggregate market price of such goods sold in the course of a day, together with the market price of such goods otherwise transferred during the course of that day, does not exceed two thousand and five hundred rupees.

CHAPTER IVC

POWER TO EXEMPT FROM THE PROVISIONS OF CHAPTERS IVA AND IVB

Power to exempt.

11N. If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, goods of any class or description from all or any of the provisions of Chapter IVA or Chapter IVB.".

Insertion of new section 106A

3. After section 106 of the principal Act, the following section shall be inserted, namely:—

Power to inspect.

"106A. Any proper officer authorised in this behalf by the Collector of Customs may, for the purpose of ascertaining whether or not the requirements of this Act have been complied with, at any reasonable time, enter any place of storage of any goods notified under Chapter IVA or specified under Chapter IVB, as the case may be, and inspect the goods stored therein and require any person found therein, who is for the

purpose of ascertaining whether or not such goods have been illegally imported or are likely to be illegally exported.".

Amendment of section 111.

4. In section 111 of the principal Act, after clause (*o*), the following clause shall be inserted, namely:—

"(*p*) any notified goods in relation to which any provisions of Chapter IVA or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.".

Amendment of section 113.

5. In section 113 of the principal Act, after clause (*k*), the following clause shall be inserted, namely:—

"(*l*) any specified goods in relation to which any provisions of Chapter IVB or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.".

Amendment of section 159.

6. In section 159 of the principal Act, after the figures "11", the figures and letters "11B, 11-I, 11K, 11N" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Because of large scale smuggling of silver out of the country and of various consumer articles into the country, it has become necessary to make additional provisions in the Customs Act, 1962 so that smuggled goods and attempts at smuggling can be effectively and expeditiously dealt with. The object of the provisions of the Bill is to prevent smuggling by facilitating the detection and confiscation of goods smuggled into the country and goods sought to be smuggled out of the country. The Notes on clauses explain the various provisions contained in the Bill.

NEW DELHI; MORARJI R. DESAI.
The 26th November, 1968.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 2|5|68-Cus.VI, dated the 27th November, 1968 from Shri Morarji Desai, Deputy Prime Minister and Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Customs (Amendment) Bill, 1968, namely, to amend the Customs Act, 1962, so as to provide for confiscation of goods smuggled or attempted to be smuggled and to empower the Central Government to take steps for exercising better control over goods being illegally imported and those likely to be illegally exported, has recommended, under clauses (1) and (3) of article 117 of the Constitution, the said Bill for introduction in and consideration by the Lok Sabha.

Notes on clauses

Clause 1 seeks to empower the Central Government to fix the date of commencement of all or different provisions.

Clause 2 seeks to introduce new sections 11A to 11N:—

Section 11A defines the various expressions used in Chapter IVA.

Section 11B empowers the Central Government to notify goods to which these provisions will apply when it is satisfied that the magnitude of smuggling in such goods is such that it is expedient to take special measures.

Section 11C provides that all persons possessing notified goods on the notified date will have to deliver a statement within seven days to the proper officer of customs indicating the place of storage and such particulars of the goods as may be specified under the Rules. Those who acquire such goods afterwards for the first time will also have to furnish similar information, the intimation in respect of the place of storage being delivered to the customs officer in advance and the particulars of the goods being furnished immediately on acquisition. The section also provides that no goods shall be taken out of the intimated place unless accompanied by a voucher.

Section 11D provides that no person shall acquire, except by gift or succession, any notified goods unless they are accompanied by a sale voucher or evidence of clearance through the customs. Further, where the purchase is made from a person not having a fixed place of business the purchaser is also required to take such reasonable steps as may be specified by rules to ensure that the goods acquired by him are not smuggled goods.

Section 11E provides that all persons possessing notified goods will have to maintain accounts in the prescribed form and such accounts shall be kept along with the goods.

Section 11F provides that sale, transfer, etc., of notified goods shall be evidenced by a voucher.

Section 11G provides that the regulatory provisions contained in sections 11C, 11E and 11F will not apply to goods in personal use or goods kept in residential premises of a person for his personal use. But, if such goods are sold a sale memo shall be issued.

Section 11H defines the various expressions used in Chapter IVB. The regulatory provisions are to apply within the specified area which will not exceed 50 kilometres in width from the coast or land border of India.

Section 11-I empowers the Central Government to specify goods to which the regulatory provisions will apply on being satisfied that the magnitude of smuggling out of such goods is such that it is expedient to take special measures.

Section 11J provides that persons possessing specified goods of a market price exceeding Rs. 15,000 will have to intimate the particulars of the place of storage to the proper officer of customs and those who acquire goods of such market price afterwards will have to intimate the place of storage in advance.

Section 11K provides that whenever any specified goods are transported from, into and within any specified area they shall be accompanied by a transport voucher prepared by the person selling the goods or possessing the goods. In order to avoid hardship transport of goods of a market price not exceeding Rs. 1,000 has been exempted. The section also empowers the Central Government to specify that in certain circumstances transport vouchers concerning goods of a market price exceeding a specified sum shall have to be countersigned by the proper officer of customs. The intention is that where the time, place, mode, etc., of transport is suspicious the officer of customs should know beforehand about such transport.

Section 11L requires that any person possessing goods of a market price exceeding Rs. 15,000 shall maintain accounts in the prescribed form. The exemption limit has been set high enough to avoid any inconvenience to middle class or petty traders. The section also provides that where the stock of goods is less than the balance shown in the books the shortfall shall be presumed to have been smuggled out unless the contrary is proved.

Section 11M provides that except where the seller receives payment by cheque drawn by the purchaser he will take such reasonable steps as may be specified in the rules to ensure that the purchaser is not a fictitious person and if he fails to take such steps it shall be presumed that the goods have been smuggled out. The intention is that a person should not be able to account for the goods that he has smuggled by showing sales

to fictitious persons. In order that no inconvenience is caused, petty sales the aggregate market price of which in a day does not exceed Rs. 2,500 have been exempted from its provision.

Section 11N empowers the Central Government to exempt goods of any specified description from the provisions of Chapter IVA or Chapter IVB. The intention is that should the application of these provisions cause any inconvenience necessary exemption may be issued.

Clause 3 empowers the proper officer of customs to inspect the storage premises where notified or specified goods are kept and to check the accounts.

Clause 4 provides that any notified goods in relation to which any provisions of Chapter IVA or of any rules have been contravened, shall be liable to confiscation.

Clause 5 provides that any specified goods in relation to which any provisions of Chapter IVB or of any rules have been contravened, shall be liable to confiscation.

Clause 6 provides that Notifications issued under sections 11B, 11-I, 11K and 11N shall be placed before Parliament. Provision already exists under section 159 that all rules made shall be placed before Parliament.

FINANCIAL MEMORANDUM

The purpose of the Bill is to make additional provisions in the Customs Act, 1962, with a view to preventing the smuggling of goods by facilitating the detection and confiscation of smuggled goods into the country and goods sought to be smuggled out of the country. The provisions made in the Bill include, under certain circumstances, the furnishing of intimations and statements with regard to places of storage, issue of vouchers relating to sale and transport, maintenance of accounts by persons possessing notified goods or specified goods, etc. Although there is no particular clause in the Bill which would involve expenditure from the Consolidated Fund of India, enforcement of the provisions of the Bill, as a whole, would involve extra work on the part of officers of customs who are already employed for the prevention of illegal import and export of goods in general. It will, therefore, be necessary to strengthen the existing staff in the various customs formations. It is estimated that an extra expenditure of—

(*a*) Rs. 2 lakhs for the remaining part of the current financial year, and

(*b*) Rs. 8 lakhs for a full year.

may have to be incurred for the enforcement of the provisions of the Bill.

The Bill would not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert three new Chapters, namely Chapters IVA, IVB and IVC (containing sections 11A to 11G, 11H to 11M, and 11N, respectively) in the Customs Act, 1962.

2. Proposed section 11B seeks to empower the Central Government to notify illegally imported goods of any class or description in relation to which the provisions of Chapter IVA should be complied with.

3. Proposed sections 11H and 11-I seek to empower the Central Government to specify—

(*a*) export goods in relation to which the provisions of Chapter IVB should be complied with, and

(*b*) a belt within which the possession, sale, transfer or transport of any specified export goods would be regulated by the provisions of Chapter IVB.

4. Proposed section 11K seeks to empower the Central Government to specify export goods of any class or description which shall not be transported from, into or within the specified area unless they are accompanied by a transport voucher countersigned by the proper officer.

5. Proposed section 11N empowers the Central Government to exempt goods of any class or description from all or any of the provisions of Chapter IVA or Chapter IVB.

6. Proposed sections 11C, 11E, 11F, 11G, 11J, 11K and 11L seek to empower the Central Government to specify, by rules made in this behalf, the form and manner in which,—

(*a*) the statement containing the particulars of the place of storage of notified or specified goods, as the case may be, shall be prepared;

(*b*) accounts shall be maintained by a person owning, possessing or controlling any notified or specified goods, as the case may be;

(c) the voucher showing the sale, transfer, delivery or other disposal of any notified goods (which are not in personal use) shall be prepared;

(d) the memorandum showing the sale of notified goods which are in personal use or are kept in any residential premises for personal use, shall be prepared;

(e) the transit or transport voucher, as the case may be, in relation to specified goods shall be maintained.

7. Proposed sections 11D and 11M seek to empower the Central Government to specify reasonable steps which should be taken by a person who acquires any notified or specified goods, as the case may be, to ensure that they are not illegally imported goods or are not intended to be illegally exported.

8. The matters in respect of which notifications or rules can be made by the Central Government are matters of procedure and details and it is hardly possible to provide for them in the Act itself. The delegation of the legislative power is, therefore, of a normal character.

S L SHAKDHER,
Secretary

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